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Supreme Court, U.S.
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NO. _____

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IN THE
SUPREME COURT OF THE UNITED STATES

_____

OCTOBER TERM, 1995

_____

EDWARD G. TINSLEY, Petitioner

vs.

TRW INCORPORATED, Respondents
EQUIFAX CREDIT
INFORMATION SERVICES, INC

_____

On Petition for Writ of Certiorari
TO THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

_____

PETITION FOR WRIT OF CERTIORARI

_____

Edward G. Tinsley
11749 Crestwood Avenue, North
Brandywine, Maryland 20613
(301) 372-1195
Pro se
Petitioner

QUESTION PRESENTED

Did the United States Court of Appeals err in upholding the Federal District Court's grant of summary judgment against the Plaintiff?

PARTIES TO THE PROCEEDINGS

Edward G. Tinsley, the petitioner herein, and the respondents TRW, Incorporated, and Equifax Credit Information Services, Incorporated, are the parties to this proceeding.

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OPINIONS BELOW

The unpublished Opinion of the United States Court of Appeals for the Fourth Circuit is reproduced in the appendix at 1a.

The decision of the United States District Court for the District of Maryland, Southern Division, is reproduced in the appendix at 1b.

A Memorandum and Order from the District Court of Maryland, Southern Division, appears in the appendix on page 1c.

A Memorandum and Order from the District Court of Maryland, Southern Division, appears in the appendix on page 1d.

JURISDICTION

The judgment of the Court of Appeals was entered on August 15, 1995. This court has jurisdiction under 28 U.S.C. Section 1254 (1).

STATUTORY PROVISION INVOLVED

15 U.S.C. Sec. 1681 provides in relevant part:

(b) Reasonable procedures

It is the purpose of this subchapter to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner

which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy and proper utilization of such information in accordance with the requirements of this subchapter.

CONSTITUTIONAL PROVISION INVOLVED
Amendment VII to the United States Constitution

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

STATEMENT OF THE CASE

Plaintiff has sued Defendants TRW, Incorporated, and Equifax Credit Information Services, Incorporated, both credit reporting agencies, for violations of the compliance procedures of the Fair Credit Reporting Act (FCRA), Title 15 U.S.C. section 1681e.

District Court granted Defendants motion for summary judgment and Court of Appeals affirmed the reasoning of the District Court, although there are genuine facts that are in dispute.

If there is a real factual dispute between parties relevant to legal claim they must be afforded trial and the case cannot be disposed of by summary judgment. *Ecology Center of Louisiana, Inc. v. Colemen*, C.A.La. 1975, 515 F.2d 860.

In early January 1994, Plaintiff phoned Homestead Mortgage Company in response to an advertisement concerning a home refinance loan. Plaintiff was quoted excellent rates and terms, and decided to let the loan officer take his application. Plaintiff gave Homestead Mortgage Company his name, address, phone number, social security number, type of loan desired, year residence acquired, original cost, total of existing liens, manner in which title was to be held, dependants and their ages, employer, salary, and last but not least, Plaintiff gave Homestead permission to obtain an in-file credit check on him.

After receiving the in-file credit report, it is undisputed, the loan officer advised the Plaintiff that tax liens appeared on his report and these items would have to be resolved before Homestead would consider a refinance loan. Plaintiff advised that tax liens probably belonged to father, but Homestead countered that the issue would still have to be resolved because the liens appeared under the Plaintiff's social security number.

Plaintiff then requested and received an official copy of his credit report from each Defendant in this case. In reviewing the credit reports, Plaintiff discovered tax liens, belonging to his father, were placed under the Plaintiff's name and social security number.

The Defendants sole defense in this matter seems to be that the Plaintiff never "completed and returned an application for any loan," as they state in their motion for summary judgment.

The Plaintiff's application was taken over the phone. The inclusion of this adverse information to the Plaintiff's credit report effectively prevented him from obtaining a loan from Homestead Mortgage Company. The tax liens clearly do not belong to the Plaintiff. The report also included other entries that were not the obligation of the Plaintiff.

The Court of Appeals rendered a decision on August 15, 1995, affirming the District Court's grant of summary judgment for the Defendants in this case.

The basis for federal jurisdiction in the court of first instance was invoked under Title 28 U.S.C. section 1332.

REASONS FOR GRANTING THE WRIT

A THE OPINIONS RENDERED ARE IN CONFLICT WITH THIS COURT AND OTHER CIRCUIT AND DISTRICT COURTS

The Supreme Court has stated in *Anderson v. Liberty Lobby,Inc.* 477 U.S. at 248, 106 S.Ct. at 2510, that as to materiality,

> "[O]nly disputes over the facts that might affect the outcome of the suit under the governing law will properly preclude summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted."

The Fifth Circuit Court of Appeals has addressed when an issue is genuine.

> [A]n issue is genuine if the evidence supporting its resolution in favor of the party opposing summary judgment, together with any inferences in such party's favor that the evidence allows, would be sufficient to support a verdict in favor of that party. If on the other hand, the evidence offered by both the moving and opposing parties would support only one conclusion and, even if all the evidence to the contrary is fully credited, a trial court would be obliged to direct a verdict in favor of the moving party, the issue is not genuine. *Professional Managers, Inc. v. Fawer,*

Brian, Hardy & Zatzkis, 799 F.2d 218,222 (5th Cir. 1986).

The evidence that the Plaintiff has will meet the genuine as well as the materiality definitions.

The Fourth Circuit Court of Appeals has stated:

> "[I]n any action for summary judgment it is not the Court's function to determine disputed issues of fact. Though the Court may feel more in sympathy with one view of the facts than with the other, it is clear that, as long as there remains a genuine issue of fact, summary judgment should not be granted." *Harford v. Smith*, D.C.W.Va. 1967, 272 F.Supp. 831, 832-833.

The Second Circuit Court of Appeals has stated:

> The party opposing a summary judgment has the right to a full evidentiary hearing on all genuine issues of material fact. *U.S. v. J.B. Williams Co.*, C.A.2d, 1974, 498 F.2d 414.

The Plaintiff in this case has not had a hearing, evidentiary or otherwise.

B. BASIS FOR ACTION IS IN DISPUTE

The Defendants in this case state in their joint motion for summary judgment that the Plaintiff brought an action against them because of violations of the FCRA 15 U.S.C. 1641 et seq., which addresses civil actions for violations pertaining to creditors and disclosure statements.

The basis for Plaintiff's lawsuit addresses civil actions for credit reporting agency noncompliance.(15 U.S.C. section 1681e).

If there is a real dispute as to material facts, a summary judgment cannot be allowed. *Molinaro v. Watkins-Johnson* CEI Division, D.C. Md.1973, 359 F.Supp. 467.

C. ERROR MADE BY THE COURT OF APPEALS

Plaintiff believes error was made by the Court of Appeals in this matter, in that they made their decision in light most favorable to the Defendants in this case, as opposed to the Plaintiff.

Standard is substantially the same whether appellate court is reviewing orders of dismissal under Rule 12 (b) (6) or summary judgments entered pursuant to Rule 56, facts being viewed in light most favorable to parties opposing motion. *Ailshire v. Darnell* (1974, CA8 Mo) 508 F.2d 526, 19 FR Serv 2d 1261.

Plaintiff, in his informal brief to the Court of Appeals, stated that the District Court, in granting Defendants motion for summary judgment, failed to consider any grounds for relief, incorrectly decided the facts, and applied the wrong law. Plaintiff stated that a hearing, in his behalf, was not conducted at all and it appeared the District Court decided the facts on hearsay evidence of the Defendants. Plaintiff also mentioned to the Court of Appeals of an earlier lawsuit in 1981, against one of the Defendants. (CBI which is now Equifax Credit Information Services.) The civil lawsuit number is CV5-21490-81 and was handled through the Prince Georges' County Circuit Court. The prior lawsuit was settled, and ironically, it also involved the denial of a mortgage loan. Plaintiff suggested to the Court of Appeals that this previous lawsuit should give credibility to the fact that keeping his credit separate from his father's credit has been an on-going battle.

Plaintiff, in his docketing statement, stated the means by which relief could be granted and listed, with particularity, his damages. Plaintiff also forwarded to the Court of Appeals a copy of his pre-trial order, which listed over 100 documents to be used at trial. The District Court, as well as the Defendants, received a copy of this pre-trial order.

Appeals Court applies same standard as trial court in reviewing its decision to grant

summary judgment, in that summary judgment should not be entered unless pleadings, stipulations, affidavits, and admissions show there exists no genuine issue as to any material fact, unless movant has established its right to judgment with such clarity as to leave no room for controversy, and unless other party is not entitled to recover under any discernible circumstances. *Vette Co. v. Aetna Casualty & Surety Co.* (1980, CA8 Mo) 612 F.2d 1076.

On certiorari to review a decision of a Federal Court of Appeals affirming a Federal District Court's grant of summary judgment against the plaintiff, the United States Supreme Court, in appraising the plaintiff's claim must accept the plaintiff's version of the facts, since the District Court was required to resolve all genuine disputes as to material facts in favor of the plaintiff in granting summary judgment. *Bishop v. Wood,* 426 US 341, 96 S. Ct. 2074.

D. THERE IS A GENUINE ISSUE OF MATERIAL FACT.

There is a genuine issue of material fact in this case and, as previously stated, the Plaintiff was prevented from presenting to the Court any material fact. Summary judgment was entered for Defendants in this case, one day before the scheduled pre-trial conference. *Fed. R. Civ. P. Rule 16 (c) (5)* suggests that a subject for consideration at pre-trial conference would be the

appropriatness of summary adjudication under rule 56.

Credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge, whether the judge is ruling on a motion for summary judgment or on a motion for a directed verdict. *Anderson v. Liberty Lobby, Inc.* 477 US 242, 106 S. Ct. 2505.

Setting aside for the moment the issue of being rejected by Homestead Mortgage Company, the Plaintiff has documentation to show that he "actually applied for and was denied," a mortgage loan from First Virginia Bank in 1993, and two mortgage loans from Dominion Bankshares in 1992. The applications were withdrawn when the Plaintiff was advised that adverse credit entries appearing on his credit report, would prevent him from obtaining said mortgage loans.

In or about September 1992, the Plaintiff recruited the assistance of Ms. Arlene Kafker, a consumer protection attorney with offices at 1700 K Street, N.W., Washington D.C., regarding ways to keep Defendants from including adverse information in his credit history. She helped him to get his credit corrected, and recommended sending certified correspondence, instead of placing phone calls and sending first class correspondence whenever there were errors to be corrected. Her advice prompted a letter to both

Defendants dated October 1, 1992.(page 17) The credit report was corrected briefly, very briefly. In June 1993, the Plaintiff was rejected for a mortgage at First Virginia Bank.

Plaintiff has documentation to show that Defendants have been negligently preparing these credit reports, not just in the instance with Homestead Mortgage Company or with the other mortgage loan rejections, but with additional credit denials dating back to 1979.

It should be noted that the Plaintiff has always had, and continues to have, a perfect credit history. Dispite this accomplishment, Plaintiff has rejection letters from:

Marlo Furniture	Sep.	1978
Town Center Management	Oct.	1979
Merchants Factoring	Jan.	1981
Suburban Bank	Jul.	1982
Suburban Bank	Nov.	1982
Suburban Bank	Jan.	1989
Montgomery Ward	Apr.	1989
Citizens Bank	Mar.	1990
Bank of N.Y.	Mar.	1992
Core States Bank	Jul.	1992
Banc Ohio	Dec.	1992
Bank of N.Y.	Dec.	1992

These denial letters are only a fraction of the denial letters Plaintiff has actually received,

the remainder discarded out of frustration. Each rejection was followed up with a phone call and/or letter attempting to correct information in error.

On or about March 23, 1981, Plaintiff employed the law offices of J.E. Wingfield, Washington, D.C., seeking help to keep errors off his credit report. A letter from J. E. Wingfield's office some seven months later states in part, "We do thank you for the opportunity of investigating this case and I am glad that we were able to finally correct your record with the Credit Bureau so that you should not have any difficulty in the future. Should you have any further questions, please contact us.

Very truly yours,
/s/ Maurice I. Burnstein

It is without a doubt that the Plaintiff could have obtained a home refinance mortgage loan if only his credit report was prepared with reasonable care. In March, 1993, the Plaintiff obtained two refinance mortgages on investment property he owns, without a credit check. When Plaintiff informed Defendants of this, they found it extremely hard to believe, which is what prompted a letter from Temple-Inland Mortgage Corporation, dated 9-20-1994.(letter on page14) Plaintiff also knows how difficult it is for an individual to secure almost any type of financing

with recorded judgments and liens. He is a former real-estate agent licensed in the State of Maryland, license number 70448.

The Plaintiff in this case had orginally thought (trying to give the credit bureaus the benefit of the doubt) that maybe these tax liens were being reported incorrectly to them by the taxing authorities, but upon investigation, found this was not the case. Plaintiff personally visited the recorder of deeds and to his amazement, the tax liens were listed correctly in Plaintiff's father's name and social security number. The fault lies entirely within the credit reporting agencies. Conversely, even if this information was being reported to the agencies in error, *Bryant v. TRW, Inc*, 689 F.2d 72 (1982) suggests that credit bureaus cannot be passive receptacles of adverse credit information.

In addressing the reasonable procedures the Defendants used in preparing these reports, the Plaintiff estimates that the agencies used only a single "point of correspondence," which was his name. Reasonable procedures could not have been maintained or executed in this case, because apparently, just a single piece of identifying . . . . . information was used to connect the individual with his credit history.

TEMPLE-INLAND MORTGAGE CORPORATION

September 20, 1994

CERTIFIED MAIL

Mr. Sandy D. Baron
Goldstein & Baron, Chartered
4321 Hartwick Road, Suite 300
College Park, Maryland 20740

Re: SUBPOENA FOR RECORDS OF EDWARD G. TINSLEY TIMC LOAN NUMBERS 863900 AND 863903 CIVIL CASE NO. PJM 94-1268

Dear Mr. Baron:

Pursuant to our phone conversation of September 19, 1994, the Mortgage Credit Analysis Worksheets and the Uniform Residential Loan Application documents will be forwarded to your attention ten days from said date of this letter.

In addition, there are no documents in the loan files from any national credit repository because this loan was a streamline refinance, not requiring our addressing credit worthiness

through any of our credit repositories. Should you require further information, please contact me at the address seen at the bottom of this letter or by calling me directly at (512) 469-5203.

Sincerely,
/s/ Sid E. Struss

Administrator
Loan Administration
Temple -Inland Building * 301 Congress, P.O. Box 40 * Austin, Texas 78767

In a letter to the Defendants dated October 1, 1992 (pg.17), Plaintiff listed five points of correspondence from which to use when preparing these reports. Any two would keep errors to a minimum:

Name and:
social security number or,
address or,
age or,
place of employment or,
date of birth.

If Plaintiff and his dad shared the same address, any three points of correspondence would eliminate errors:

Name, address and:
social security number or,
age or,
place of employment or,
date of birth.

All of the foregoing facts could have been discussed at the pre-trial conference. Summary judgment is a lethal weapon and courts must be mindful of its aims and targets and beware of overkill in its use. *Brunswick Corp. v. Vineberg*, C.A. Fla. 1967, 370 F.2d 605.

E. CASE DISCREPANCIES

The Plaintiff has discovered two discrepancies in this case. The District Court Civil Docket (94-CV-1268) states the case was closed on March 24, 1995, and the Plaintiff filed a notice of appeal on the same day. In actuality, the Plaintiff did not file a notice of appeal until March 30, 1995.

11749 Crestwood Ave. No.
Brandywine, Md. 20613
October 1, 1992

CERTIFIED

Dear Equifax/TRW:

I have obtained a recent copy of my credit report from your company, and it contains various errors. Please make the necessary changes, as I will be re-applying for credit in approximately forty-five days.

The following information may be helpful to you in determining which accounts belong where:

	E. G. Tinsley	E.(NMI) Tinsley
Date of Birth	3-23-51	6-12-30
Soc.Sec. No.	578-68-2164	218-24-6926
Age	41	62
Place of Empl.	Metro	Self-employed
Residence	11749 Crestwood Ave. Brandywine, MD	314 60th St. Washington D.C.

Additionally, please note the name

difference. I have a middle name, my dad does not, therefore I am not a "junior". However, if it will keep mistakes to a minimum, please add the junior designation.

Sincerely,
/s/ Edward Grant Tinsley

This error is in the defendants favor in that it would have shortened any deadline for filing a notice of appeal that would be allowed the Plaintiff.

Although the District Court docket makes no reference to it, the Plaintiff filed with the court, in person, a copy of his pre-trial order listing over 100 documents to be used at trial. The pre-trial order measures the dimensions of the lawsuit, both in the trial court and on appeal. *American Home Assurance Company v. Cessna Aircraft Company*, C.A. Utah 1977, 551 F.2d 804. The Defendants never filed a pre-trial order as instructed by the District Court. (see pg.1d)

F. CASE SIMILARITIES

The Plaintiff's case is similar to *Lowry v. Credit Bureau, Inc. of Georgia*, 44 F.Supp. 541 (1978). Plaintiff Lowry sued the Defendant for violations of Title 15 U.S.C. section 1681e (b), and summary judgment was denied the Defendant. The District Court (Atlanta Division Jan. 1978)

held in part that:

> the automatic addition of Plaintiff's social security number to credit file of bankrupt person with similar name to Plaintiff's might constitute a violation of FCRA obligations to provide maximum possible accuracy in preparation of credit report, and, while Plaintiff might have difficulty demonstrating existence of damages sustained as a result of that breach, it could not be said that such proof would be impossible, thus precluding grant of summary judgment."

The District Court also stated that they have previously recognized that,

> "in order to pursue a cause of action predicated upon willful or negligent violation of 15 U.S.C. section 1681e (b), the report sought to be attacked must be inaccurate." *Middlebrooks v. Retail Credit Co.*, 416 F.Supp. 1013, 1015 (N.D.Ga. 1976)

Another related case is *Koropoulos v. Credit Bureau, Inc.*, 734 F.2d 37 (1984). Plaintiff Koropoulos filed suit alleging defendant violated FCRA 15 U.S.C. section 1681 - 1681t. The District Court granted summary judgment for the defendant, and the plaintiff appealed. The Court of Appeals ruled that the issues were

genuine issues of material fact, precluding summary judgment. The Court of Appeals (District of Columbia Circuit) stated in part:

> "first of all, we do not agree with the District Court that section 1681e (b) makes a credit reporting agency liable for damages only if the report contains statements that are technically untrue. Congress did not limit the Act's mandate to reasonable procedures to assure only "technical accuracy:" to the contrary, the Act requires reasonable procedures to assure maximum accuracy.

The Court of Appeals found that genuine issues of material fact existed in part in regard to CBI negligently issuing a misleading or incomplete report, in violation of 15 U.S.C. section 1681e (b).

Another similar case is *Stewart v. Credit Bureau, Inc.*, 734 F.2d 47 (1984). Appellant Stewart appealed from a District Court order granting summary judgment for the defendant. Court of Appeals (District of Columbia 1984) held that evidence created a genuine issue of material fact as to whether agency followed reasonable procedures to assure accuracy of consumers credit report, precluding summary judgment. Court of Appeals went on to say in part:

> "Judging the reasonableness of an agency's procedures involves weighing the potential

> harm from inaccuracy against the burden of safeguarding against such inaccuracy. *Koropoulos v. Credit Bureau, Inc.*, 734 F.2d 37, (1984): *Alexander v. Moore & Associates, Inc.*, 553 F.Supp. 948 (D.Haw. 1982). Under this standard a plaintiff need not introduce direct evidence of unreasonableness of procedures. In certain instances, inaccurate credit reports by themselves can fairly be read as evidencing unreasonable procedures, and we hold that in such instances Plaintiff's failure to present direct evidence will not be fatal to his claim.
>
> Our holding is buttressed by several section 1681e (b) cases in which the plaintiffs prevailed despite their failure to present direct evidence on Defendants' reporting procedures."

The Plaintiff in this action can introduce direct evidence that, on several occasions, the Defendants did not follow reasonable procedures to assure maximum possible accuracy in the preparation of their credit reports.

The Plaintiff demanded a jury trial, which was scheduled to begin on April 10, 1995. It is especially necessary to be cautious in making determination to grant summary judgment where jury trial has been demanded. *Cameron v. Vancouver Plywood Corp.* (1959, CA9 Or) 266 F.2d 535, 2FR Serv. 2d 858.

In ruling on motion for summary judgment court should be particularly circumspect where case is scheduled for trial by jury. *Findeisen v. North East Independent School District.* (1984, CA5 Tex) 749 F.2d 234, cert. den. (US) 86 L.Ed. 2d 274, 105 S.Ct. 2657.

In summarization, a prior lawsuit, the assistance from attorney J.E. Wingfield, complaints by certified, as well as first class correspondence, ... numerous complaints by phone spanning sixteen years, the assistance of Attorney Arlene Kafker, a consumer protection attorney, nothing the Plaintiff has done thus far has been effective in getting the Defendants to comply with 15 U.S.C. section 1681e requirements.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

Edward G. Tinsley
11749 Crestwood Avenue, No.
Brandywine, Maryland 20613
(301) 372-1195
pro se
Petitioner

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
NO. 95-1767

EDWARD G. TINSLEY, Plaintiff-Appellant,

Versus

TRW, INCORPORATED: EQUIFAX CREDIT INFORMATION SERVICES, Defendant-Appellees,

and

TRANSUNION CORPORATION
Defendant

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, District Judge. (CA-94-1268-PJM)

Submitted: July 27, 1995

Decided: August 15, 1995

Before ERVIN, Chief Judge, MOTZ, Circuit Judge, and PHILLIPS, Senioir Circuit Judge.

Affirmed by unpublished per curiam opinion.

Edward G. Tinsley, Appellant Pro Se. Sandy David Baron, GOLDSTEIN & BARON, CHARTERED, College Park, Maryland: Thomas Moss Wood, IV, NEUBERGER, QUINN, GIELEN, RUBIN, GIBBER, P.A., Baltimore, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See I.O.P. 36.5 and 36.6.

PER CURIAM:

Appellant appeals from the district court's order granting summary judgment to the Defendants in his action alleging "willful negligence" in violation of the Fair Credit Reporting Act, 15 U.S.C.A. 1681-1681t (West 1982 & Supp. 1995). We have reviewed the record and the District Court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the District Court. Tinsley v. TRW, INC., No. CA-94-1268-PJM (D.Md. Mar. 27, 1995). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

EDWARD G. TINSLEY	*	
Plaintiff	*	
v.	*	CIVIL ACTION NO.
TRANSUNION		
CORPORATION et al.	*	PJM 94-1268
Defendants	*	

OPINION

I.

Plaintiff Edward G. Tinsley, acting pro se, has sued Defendants TRW, Inc. (TRW) and Equifax Credit Information Services, Inc. (Equifax)[1] for "willful negligence",[2] in merging his credit profile with that of his father. Plaintiff maintains that Defendants actions resulted in an unfavorable credit report which unfairly restricted him from pursuing real estate investment opportunities and from refinancing his home.

Defendants have moved for summary judgment principally on that grounds that, since Plaintiff

---

[1].Defendant Transunion Corporation was previously dismissed from this suit with prejudice.

[2]. "Willful negligence" is an oxymoron. Under the Fair Credit Reporting Act (FCRA), 15 U.S.C.A. section 1681 et seq., willful failure to follow reasonable procedures to assure maximum accuracy of credit information constitutes one cause of action (section 1681n), negligent failure another (section 1681o)

never attempted to purchase real property and never applied to refinance his home, he has sustained no damages. Defendants also argue that FCRA is inapplicable because Plaintiff would have conducted any real estate transactions through his business entity rather than as a consumer, and even assuming applicability of the Act, Plaintiff has offered no evidence that Defendants acted willfully or negligently. The Court has determinted to grant Defendants' motion.

II.

Summary judgment is appropriate if there is no genuine issue of material fact that could lead a rationale trier of fact to find for the non-moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986). While all justifiable inferences must be drawn in favor of the non-movant, *Multier v. Beorn*, 896 F.2d 848 (4th Cir. 1990), the non-moving party cannot create a genuine issue of material fact through mere speculation or the building of inference upon inference. *Beale v. Harding*, 769 F.2d 213 (4th Cir. 1985).

III.

These are the facts considered in light most favorable to the Plaintiff:

Tinsley, a full-time employee of the

Washington Metropolitan Area Transit Authority, also owns rental properties. He conducts his real estate investment activities under the name of "TGE Associates", which maintains its own post office box and checking account. Defendant TRW, an Ohio corporation and Defendant Equifax, a Georgia corporation, are credit reporting agencies.

On October 1, 1992, Plaintiff sent letters to Defendants advising that they had erroneously merged his and his father's credit accounts.[3]

Because Plaintiff did not identify specific errors, TRW and Equifax sent him updated credit reports and requested that he particularize all information in error. There is no evidence that the Plaintiff ever did this. In January of 1994, however, Plaintiff contacted Christine Jones of Homestead Mortgage Company regarding possible refinancing of his home. According to Jone's uncontradicted affidavit, with Plaintiff's permission, she obtained an infile report listing certain tax liens and accounts which Plaintiff contends were his father's obligations. The infile report cautioned that the account might contain information referring to another family member, stating that "this is not a residential mortgage report. Information is to be used for infile purposes only. The above information has not been investigated."

Subsequently, Jones contacted Plaintiff to inform that the tax liens needed to be resolved and that he should provide documentary evidence that the liens were not his. She followed up by sending Plaintiff written information and an application. Again Plaintiff failed to respond. Before this Court, Plaintiff, without more, declares that he would have "no problem getting evidence of lenders' TOTAL UNWILLINGNESS to work with clients who have delinquent credit history." (Emphasis in original).

Although Plaintiff claims that erroneous entries on his credit report prevented him from investing in distressed real property, he identifies no instance in which he bid on or sought financing for a property and was rejected as a result of information on his credit reports. In the one attempt to invest in a property he cites that in Temple Hills, Maryland, the sellers either decided to take another offer or did not accept his. Plaintiff's allegedly lost opportunity for refinancing his home involves the same application to Homestead Mortgage Company referred to previously. Although claiming inability to refinance with Homestead because of negative entries on his credit report, it is further undisputed that the Plaintiff never actually applied for the refinancing.

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[3] Plaintiff's father is also named Edward Tinsley. Plaintiff, while not physically residing with his father frequently uses his father's home address for various purposes.

IV.

The Court will assume, for present purposes, that the credit report in this case was a "consumer report", within the meaning of FCRA, section 1681a(d); that is, that the report was expected to be used to qualify Plaintiff for "credit to be used primarily for personal...purposes." (See *Ippolito v. WNS, Inc.*, 864 F.2d 440, 449 (7th Cir. 1988), cert. dismissed, 490, U.S. 1061 (1989). It still remains for Plaintiff to present at least a modicum of evidence that Defendants did not comply with FCRA and acted either willfully or negligently in not doing so. See *Middlebrooks v. Retail Credit Co.*, 416 F.Supp. 1013, 1015 (N.D.Ga. 1976). Mere proof of inaccuracy in a credit report will not suffice, FCRA does not impose strict liability, only liability for malicious or willful non-compliance, *Watson v. Credit Bureau, Inc.*, 660 F.Supp 48, 50 (S.D.Miss, 1986), or for breach of a "duty of reasonable care in the preparation of the report." *Thompson v.San Antonio Retail Merchants Assoc'n*, 682 F.2d 509, 513 (5th Cir. 1982).

Plaintiff never gets beyond an allegation of inaccuracy in this case. Defendants' evidence of procedures they maintained and executed to assure maximum possible accuracy in their reports is uncontradicted. Plaintiff has not troubled himself to show in any respect that these procedures breached any standard of reasonable care, much less were willfully or

maliciously contrived. Moreover, Plaintiff's own failure to specify or follow up on claimed errors breaks any chain of causation as far as negligent or willful acts on the part of the Defendants might be concerned. Plaintiff has raised no genuine issue of material fact as to violation of FCRA by Defendants.

Plaintiff's case similarly falters on the matter of damages; quite simply, he has shown none. He lost no investment opportunity by reason of any credit report, nor can he show a lost opportunity to refinance his home mortgage when he never made application for such. The absence of any economic damage dooms Plaintiff's venture in this Court. See *Ladner v. Equifax Credit Info. Servs. Inc.*, 828 F.Supp. 427, 432 (S.D. Miss. 1993).

In view of the foregoing, the Court finds no need to address the other arguments Defendants raise in their motion.

A separate Order will be entered implementing this decision.

/s/ Peter J. Messitte
PETER J. Messitte

UNITED STATES DISTRICT JUDGE

[Entry date 3-27-95]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

EDWARD G. TINSLEY	*	
Plaintiff	*	
v.	*	CIVIL ACTION NO.
TRANSUNION	*	
CORPORATION et al.	*	PJM 94-1268
Defendants	*	

FINAL ORDER OF JUDGMENT

Upon consideration of Defendant's Motion for Summary Judgment and Plaintiff's Opposition thereto, it is for the reasons set forth in the accompanying Opinion, this 23 day of March, 1995.

ORDERED that said Motion is hereby GRANTED; and it is furthered ORDERED that final judgment is hereby ENTERED in favor of Defendants TRW, Inc. and Equifax Credit Information Services, Inc., and against Plaintiff Edward G. Tinsley, costs to be paid by Plaintiff.

/s/ Peter J. Messitte
PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE
[Entry date 3-27-95]

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
6500 CHERRYWOOD LANE
GREENBELT, MARYLAND 20770

MEMORANDUM

TO: Counsel of Record/Pro Se Parties

FROM: Judge Messitte

RE: Tinsley v. Transunion Corporation, et al, Civil No. PJM 94-1268

DATE: December 23, 1994

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It has recently come to my attention that there may have been some misunderstanding regarding the Court's action on the Defendant's Motion for Summary Judgment. The Court has not yet ruled on that Motion.

I also understand that the parties are engaged in settlement discussions. At this time, I will defer considering the Defendants Motion for Summary Judgment for 30 days to allow the settlement dialogue to proceed.

Despite the informal nature of this ruling, it shall constitute an Order of Court, and the Clerk is directed to docket it accordingly.

/s/ Peter J. Messitte
PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

[Entry date 1-9-95]

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

EDWARD G. TINSLEY Plaintiff	•	
v.	•	CIVIL ACTION NO
TRANSUNION CORPORATION INC. Defendants	•	PJM 94-1268

NOTE: THIS MEMORANDUM REGARDING TRIAL PROCEDURES SUPERSEDES ANY PRIOR SUCH MEMORANDUM IN A CASE WHICH HAS BEEN REASSIGNED TO JUDGE MESSITTE.

M E M O R A N D U M

TO: Counsel and Pro Se Parties

FROM: Judge Peter J. Messitte

RE: My Procedure in Non-Jury and Jury Trials

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I.

In all cases that will be tried before me, it is assumed that a Pre-Trial Order will have been entered pursuant to Local Rule 106. Accordingly, the Court should already have before it:

A) A brief statement of facts that each Plaintiff proposes to prove in support of that Plaintiff's claims, together with a listing of the separate legal theories relied upon in support of each claim:

B) A brief statement of facts that each Defendant proposes to prove or rely upon as a defense thereto, together with a listing of the separate legal theories relied upon in support of each affirmative offense:

C) The details of the damages claimed or other relief sought as of the date of the Pre-Trial Conference:

D) A listing of documents and records to be offered in evidence by each side at the trial:

E) A list for each party of the name and specialties of experts the party proposes to call as witnesses:

F) A list of the pages and/or lines of any portion of a deposition to be offered in the party's case-in-chief and any counter-designations under Federal Rule of Civil Procedure 32a.4.

SO ORDERED this 25 day of May, 1994.

/s/ Peter J. Messitte
PETER J. MESSITTE

UNITED STATES DISTRICT JUDGE

[Entry date 6-1-94]